The Honorable Barbara J. Rothstein

## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

TATIANA WESTBROOK, an individual; JAMES WESTBROOK, an individual; HALO BEAUTY PARTNERS, LLC, a Nevada Limited Liability Company,

Plaintiffs.

v.

KATIE JOY PAULSON, an individual; WITHOUT A CRYSTAL BALL, LLC, a Minnesota Limited Liability Company; and DOES 1 through 100, inclusive,

Defendants.

NO. 2:20-cv-01606 BJR

DEFENDANTS' PRAECIPE RE: REPLY IN SUPPORT OF MOTION TO DISMISS (Dkt. 33)

Pursuant to Local Rule 7(m), Defendants file this Praecipe to present evidence responding to the Praecipe and accompanying Declaration of Lori Ann Barnhart filed by Plaintiffs on January 13, 2021 (Dkt. 38, 38-1). Defendants could not have filed this evidence with their January 6, 2021 Reply in Support of their Motion to Dismiss (Dkt. 33), because Plaintiffs did not present this evidence until January 13, 2021. The evidence Defendants wish to add to the record is in the form of the Supplemental Declaration of Michael P. Brown, and the Second Supplemental Declaration of Katherine Paulson.

DEFENDANTS' PRAECIPE

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600 University Street Suite 2915 Seattle, WA 98101 206.467.6477 These two supplemental declarations demonstrate that almost every material assertion of fact set forth in the Declaration of Lori Ann Barnhart, filed with Plaintiffs' Praecipe on January 13, 2021, is demonstrably false and is flatly contradicted by the very emails on which the declaration purports to rely. Those emails reflect 18 days of written communications between Ms. Barnhart and the undersigned, as well as two telephone calls. Of critical importance is the fact that Ms. Barnhart's testimony relies heavily on characterizations of those emails, but Plaintiffs' fail to attach *a single one* of those emails to her declaration. There is no justification for that failure. Ms. Barnhart's filed declaration is also *perfectly* inconsistent with a declaration she helped the undersigned prepare, and was ready and eager to sign on January 6, 2021, before she "flipped" sides in this dispute and signed a declaration on behalf of Plaintiffs. Defendants believe that this sudden recantation is explained by the facts set forth in the Supplemental Brown Declaration filed herewith.

Also of critical importance is this: shortly after Ms. Barnhart's declaration was filed, Defendants came into possession of evidence that strongly suggests Ms. Barnhart may not have been aware of what she was signing when she executed that declaration, and did not understand which side of this dispute she was in communication with when that declaration was prepared. At a minimum, this evidence warrants this Court's further attention.

DATED this 22nd day of January, 2021.

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